

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

RICHARD P. GLUNK,	:	
Plaintiff	:	No. 1:14-cv-00659
	:	
v.	:	(Judge Kane)
	:	(Magistrate Judge Carlson)
PENNSYLVANIA STATE BOARD OF MEDICINE, <u>et al.</u>,	:	
Defendants	:	

ORDER

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

Before the Court is the March 14, 2016 Report and Recommendation of Magistrate Judge Carlson (Doc. No. 38), together with Plaintiff Richard Glunk's two appeals of Magistrate Judge Carlson's orders regarding deadlines (Doc. No. 84). The Court will adopt Magistrate Judge Carlson's Report and Recommendation and deny Plaintiff's appeals.

In his Report and Recommendation, Magistrate Judge Carlson recommends granting a defense motion to dismiss based on state sovereign immunity. (See Doc. Nos. 71, 96.) Plaintiff filed a document with the Court indicating his concurrence in the Report and Recommendation. (Doc. No. 97.) In the absence of any objection, and upon a review of the Report and Recommendation and the applicable law, the Court agrees with Magistrate Judge Carlson and will adopt the Report and Recommendation.

Plaintiff's appeals concern two non-dispositive orders from Magistrate Judge Carlson. In the first non-dispositive order, Magistrate Judge Carlson granted Defendants an extension of time to file motions to dismiss and denied Plaintiff's request to lift a previously entered discovery stay. (Doc. No. 75.) In his appeal of this order, Plaintiff argues that allowing

Defendants an extension of time to file dispositive motions was improper because Plaintiff was not notified of the request for an extension and because Plaintiff was not given the opportunity to respond to the requests for an extension. (See Doc. No. 81 at 1-4.)

In the second order Plaintiff has appealed, Magistrate Judge Carlson denied Plaintiff's request to stay briefing schedules on the motions to dismiss pending disposition of Plaintiff's prior appeal. (Doc. No. 29 at 1-4.) In this appeal, Plaintiff argues that it was unjust to allow Defendants an extension to file their motions to dismiss without granting a stay of the briefing schedule pending his previous appeal because if his first appeal were granted, there would be no need for him to prepare responses. (Doc. No. 84 at 1-3.)

Pursuant to 28 U.S.C. § 636, a district court will upset a pre-trial ruling on a non-dispositive order by a magistrate judge only when the ruling "is clearly erroneous or contrary to law." 28 U.S.C. § 636(b)(1)(A). Consequently, the Court will not upset Magistrate Judge Carlson's orders granting extensions of time and denying a stay of briefing schedules absent clear error or an abuse of discretion. See Harrisburg Auth. v. CIT Capital USA, Inc., 716 F. Supp. 2d 380, 386 (M.D. Pa. June 14, 2010); M.D. Pa. L.R. 72.2. District judges and magistrate judges retain broad discretion to set and extend deadlines and to manage briefing schedules because "matters of docket control and conduct of discovery are committed to the sound discretion of the district court." In re Fine Paper Antitrust Litig., 685 F.2d 810, 817 (3d Cir. 1982); see also Newsome v. City of Newark, No. 13-6234, 2014 WL 1767562, at **1-2 (D.N.J. May 2, 2014) (collecting cases).

The Court finds no error in either of Magistrate Judge Carlson's pre-trial docket management orders. Both orders were considered and accompanied by written reasons. On

appeal, Plaintiff has raised no authority to suggest that Magistrate Judge Carlson's orders were contrary to law.

AND SO, on this 10th day of June 2016, **IT IS HEREBY ORDERED THAT:**

1. The Court adopts the Report and Recommendation (Doc. No. 96), of Magistrate Judge Carlson;
2. Defendants' motion to dismiss (Doc. No. 71), is **GRANTED**;
3. The Pennsylvania State Board of Medicine and Pennsylvania Department of State are **DISMISSED** from this lawsuit;
4. Plaintiff's appeals (Doc. Nos. 81, 84), are **DENIED**; and
5. This case is referred back to Magistrate Judge Carlson for further pre-trial management.

S/ Yvette Kane
Yvette Kane, District Judge
United States District Court
Middle District of Pennsylvania